



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0032; Notice 1]

Notice of Receipt of Petition for Decision that
Nonconforming 2005-2007 Alpina B5 Passenger Cars Manufactured
Before September 1, 2006
Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 2005-2007 Alpina B5 passenger cars manufactured before September 1, 2006 that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATE: The closing date for comments on the petition is [30 days after publication in the Federal Register].

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue S.E., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202-493-2251

INSTRUCTIONS: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to

<http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the *Federal Register* published on April 11, 2000 (65 FR 19477-78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

SUPPLEMENTARY INFORMATION:Background

Under 49 U.S.C. § 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

J.K. Technologies, LLC. of Baltimore, Maryland ("J.K.") (Registered Importer 90-006) has petitioned NHTSA to decide whether nonconforming 2005-2007 Alpina B5 Series passenger

cars manufactured before September 1, 2006 are eligible for importation into the United States. J.K. believes these vehicles are capable of being modified to meet all applicable FMVSS.

In the past, NHTSA has granted import eligibility to a number of Alpina vehicles that were derived from BMW vehicles. These include the 1988-1994 Alpina B11 coupe, the 1988-1994 Alpina B12 5.0 coupe, and the 1989-1996 Alpina B12 coupe (assigned vehicle eligibility numbers VCP-48, VCP-41, and VCP-43, respectively). These eligibility decisions were based on petitions submitted by other Registered Importers (RI's) who claimed that the vehicles were capable of being altered to comply with all applicable FMVSS.

Because those vehicles were not manufactured for importation into and sale in the United States, and were not certified by their original manufacturer (Alpina), as conforming to all applicable FMVSS, they cannot be categorized as "substantially similar" to the vehicle that is the subject of the petition at issue for the purpose of establishing import eligibility for that vehicle under 49 U.S.C. 30141(a)(1)(A). Therefore, the agency will consider J.K.'s petition as a petition pursuant to 49 U.S.C. 30141(a)(1)(B).

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2005-2007 Alpina B5 passenger cars manufactured before September 1, 2006, as originally manufactured, conform to many FMVSS. Specifically, the petitioner claims that non-U.S. certified 2005-2007 Alpina B5 passenger cars manufactured before September 1, 2006, as originally manufactured, conform to: Standard Nos.

102 Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect, 103 Windshield Defrosting and Defogging Systems, 104 Windshield Wiping and Washing Systems, 106 Brake Hoses, 109 New Pneumatic Tires, 113 Hood Latch System, 116 Motor Vehicle Brake Fluids, 124 Accelerator Control Systems, 135 Light Vehicle Brake Systems, 201 Occupant Protection in Interior Impact, 202 Head Restraints, 204 Steering Control Rearward Displacement, 205 Glazing Materials, 206 Door Locks and Door Retention Components, 207 Seating Systems, 210 Seat Belt Assembly Anchorages, 212 Windshield Mounting, 214 Side Impact Protection, 216 Roof Crush Resistance, 219 Windshield Zone Intrusion, 225 Child Restraint Anchorage Systems, and 302 Flammability of Interior Materials.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: replacement of the instrument cluster with components from the U.S.-model BMW 5-series and reprogramming the vehicle computer to operate the necessary safety systems.

Standard No. 108 Lamps, Reflective Devices, and Associated Equipment: replacement of the headlamps and tail lamps (which include side marker lights), from the U.S.-model BMW 5-series, and installation of the high-mounted stop light assembly from the U.S.-model BMW 5-series if not already so equipped.

Standard No. 110 Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less: installation of a tire information placard.

Standard No. 111 Rearview Mirrors: replacement of the passenger side rearview mirror with a component from the U.S.-model BMW 5-series or inscription of the required warning statement on the face of that mirror.

Standard No. 114 Theft Protection and Rollaway Prevention: reprogramming the vehicle computer to activate the required safety systems.

Standard No. 118 Power-operated Window, Partition, and Roof Panel Systems: reprogramming the vehicle computer to prevent the operation of these systems when the ignition is turned off.

Standard No. 208 Occupant Crash Protection: reprogramming the vehicle computer to activate the audible warning system and installation of vehicle airbags, sensors, front passenger and rear seat belts, child seat support mount, rear window shelf, and instrument panel support tube from the U.S.-model BMW 5-series.

Standard No. 209 Seat Belt Assemblies: replacement of front passenger and rear seatbelts with components from the U.S.-model BMW 5-series.

Standard No. 225 Child Restraint Anchorage Systems: installation of child seat support mounts from the U.S.-model BMW 5-series.

Standard No. 301 Fuel System Integrity: installation of an evaporative system with a rollover and check valve from the U.S.-model BMW 5-series.

Standard No. 401 Interior Trunk Release: installation of U.S.-model BMW 5-series interior trunk release components.

The petitioner states that the bumper carriers, bumper shocks, deformation elements, and support structures will be replaced with

U.S.-model 5-series components to meet the requirements of the Bumper Standard of 49 CFR part 581.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield post to meet the requirements of 49 CFR Part 565.

As previously stated, the petitioner claims that the vehicle, is capable of being modified to comply with all requirements of FMVSS No. 208 Occupant Crash Protection. NHTSA seeks specific comments on whether the vehicle, which is manufactured for sale in the European Market, is in fact capable of being modified to comply with all requirements of FMVSS No. 208, including the unbelted occupant protection requirements of this standard.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

AUTHORITY: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

ISSUED ON: May 17, 2013.

Claude H. Harris, Director
Office of Vehicle Safety Compliance

BILLING CODE: 4910-59-P

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